

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Shane Sylvester

v.

Case No. 10-cv-383-PB

United States of America

O R D E R

The petitioner cannot show prejudice resulting from his counsel's alleged failure to become aware of the new law adjusting the relative treatment of crack and powder cocaine under the sentencing guidelines. The petitioner was a career offender and has not explained how either the guideline calculation or his ultimate sentence was affected by the way in which the guidelines treated crack cocaine in relation to powder cocaine. Thus, counsel's alleged error could not have affected the sentence the defendant received. The motion to vacate sentence (Doc. No. 1) is denied.

Because the petitioner has failed to make a substantial showing of the denial of a constitutional right, the court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Rule 11, Rules Governing Habeas Corpus Cases Under Section 2254; First Circuit LR 22.0.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

November 10, 2010

cc: Shane Sylvester, pro se